

ORIGINAL

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6 Attorneys for Defendant  
7 AT&T MOBILITY LLC

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10  
11 DONALD SIPPLE, an individual, on behalf of  
12 himself, and on behalf of all persons similarly  
13 situated,

14 Plaintiffs,

15 v.

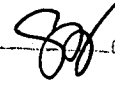
16 AT&T, INC. and AT&T MOBILITY, LLC and  
DOES 1 to 10,

17 Defendants.  
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FILED

2010 JAN 22 PM 3:08

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

Case No. '10 CV 0184

BTM RBB

Cal. State Court Case No. 37-2009-  
00103076-CU-BC-CTL

**DEFENDANT AT&T MOBILITY  
LLC'S NOTICE OF REMOVAL OF  
ACTION PURSUANT TO 28 U.S.C. §§  
1331, 1332, 1441 AND 1446**

(FEDERAL QUESTION AND  
DIVERSITY JURISDICTION—CLASS  
ACTION FAIRNESS ACT)

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1331, 1332, 1441 and 1446,  
3 Defendant AT&T Mobility LLC ("ATTM") hereby removes to this Court the state-court action  
4 described below.<sup>1</sup>

5  
6 **STATEMENT OF JURISDICTION**

7 This is a civil action over which this Court has original jurisdiction under 28 U.S.C.  
8 §§ 1331, 1332, and 1441, and is one that may be removed to this Court by ATTM, pursuant to 28  
9 U.S.C. §§ 1441 and 1332(d)(2)(A) for the reasons below.<sup>2</sup>

10 **GROUND FOR REMOVAL**

11 1. On December 3, 2009, Plaintiff Donald Sipple filed a purported class action in the  
12 Superior Court of the State of California for the County of San Diego entitled: *DONALD*  
13 *SIPPLE, an individual, on behalf of himself, and on behalf of all persons similarly situated,*  
14 *Plaintiff, vs. AT&T Inc. and AT&T MOBILITY, LLC and Does 1 to 10, Defendant*; Case Number  
15 37-2009-00103076-CU-BC-CTL.

16  
17 2. On December 24, 2009, Defendants ATTM and AT&T Inc. (collectively,  
18 "Defendants") were served with the Summons and Complaint. Pursuant to 28 U.S.C. § 1446(a),  
19 true and correct copies of all process, pleadings, and orders received by or served upon  
20 Defendants are attached to this Notice of Removal as Exhibit A.

21 3. This Notice has been timely filed pursuant to 28 U.S.C. § 1446(b).

22  
23  
24  
25  
26 <sup>1</sup> ATTM is wholly-owned by defendant AT&T Inc., which is the only publicly held  
corporation with a 10% or more ownership interest in AT&T Mobility LLC.

27 <sup>2</sup> ATTM's relationships with its customers are governed by service contracts that contain  
28 agreements to arbitrate. ATTM hereby reserves its right to compel Plaintiff to arbitrate his  
claims in accordance with his arbitration agreement.

1           4.       The California Superior Court for the County of San Diego is located within the  
2 Southern District of California. 28 U.S.C. § 84(c)(2). This Notice of Removal is therefore  
3 properly filed in this Court pursuant to 28 U.S.C. § 1441(a).

4           5.       Defendant ATTM asserts two jurisdictional bases for removal. First, this Court  
5 has jurisdiction over this action pursuant to 28 U.S.C. § 1331, which grants district courts  
6 original jurisdiction over cases presenting federal questions. As set forth below, this case  
7 “implicate[s] significant federal issues” and is therefore removable under the standards set forth  
8 by the Supreme Court in *Grable & Sons Metal Prods., Inc. v. Darue Eng’g & Mfg.*, 545 U.S.  
9 308, 312 (2005). Second, the Court has jurisdiction over this action pursuant to Section 4 of the  
10 Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d), which grants district courts  
11 original jurisdiction over putative class actions with more than 100 class members where the  
12 aggregate amount in controversy exceeds \$5 million and any member of the class of plaintiffs is  
13 a citizen of a state different from any defendant. As set forth below, this action satisfies each of  
14 the requirements of Section 1332(d)(2) for original jurisdiction under CAFA.  
15  
16

17                               **Federal Question Jurisdiction**

18           6.       Removal of this case is proper under 28 U.S.C. § 1441, because adjudication of  
19 Plaintiff’s claims will require this Court to resolve substantial, disputed questions of federal law.  
20 Thus, this Court may properly hear this action in the exercise of its federal question jurisdiction.  
21 See 28 U.S.C. § 1331.

22           7.       “[F]or nearly 100 years,” the Supreme Court has recognized that “in certain cases  
23 federal-question jurisdiction will lie over state-law claims that implicate significant federal  
24 issues.” *Grable*, 545 U.S. at 312. This “doctrine captures the commonsense notion that a federal  
25 court ought to be able to hear claims recognized under state law that nonetheless turn on  
26 substantial questions of federal law, and thus justify resort to the experience, solicitude, and hope  
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1 of uniformity that a federal forum offers on federal issues.” *Id.* Consequently, where a “state-  
2 law claim necessarily raise[s] a stated federal issue, actually disputed and substantial, which a  
3 federal forum may entertain without disturbing any congressionally approved balance of federal  
4 and state judicial responsibilities,” that action may be removed to federal court. *Id.* at 314.

5  
6 8. Here, as in *Grable*, Plaintiff’s state law claims “turn on substantial questions of  
7 federal law.” *Id.* Specifically, Plaintiff alleges that Defendants have collected taxes on internet  
8 access in violation of the federal Internet Tax Freedom Act, 47 U.S.C. § 151 note (“ITFA”).  
9 Complaint ¶¶ 7-9, 26-27 (referring to statute as “Internet Tax Fairness Act”). The ITFA bars  
10 state and local governments from imposing “[t]axes on Internet access.” 47 U.S.C. § 151 note §  
11 1101(a)(1). Plaintiff alleges that Defendants have charged him and other putative class members  
12 fees that constitute impermissible taxes on internet access. Compl. ¶¶ 9, 26.

13  
14 9. Plaintiff’s breach of contract claim is expressly predicated upon Defendants’  
15 alleged violation of the ITFA. Count One of Plaintiff’s Complaint alleges that “[d]espite the  
16 prohibition on state and local fees and taxes imposed by the Internet Tax Fairness Act,”  
17 Defendants charged him “fees and/or taxes based upon the cost of his internet access,” Compl. ¶  
18 26, and in so doing, “breached [their] contractual obligations to Plaintiff and the putative Class  
19 causing him damages in an amount to be proven at the time of trial,” *id.* ¶ 27.

20  
21 10. Plaintiff’s unfair competition claim likewise rests upon the allegation that  
22 Defendants have violated the ITFA. Count Two of Plaintiff’s Complaint alleges that Defendants  
23 violated California Business and Professions Code § 17200 by collecting fees and taxes “that  
24 were not due” and that were “unlawful,” among other things. Compl. ¶ 29.

25  
26 11. Both of these claims turn on the substantial federal question of whether fees and  
27 taxes collected by Defendants constitute “taxes on Internet access” within the meaning of the  
28 ITFA. Accordingly, although Plaintiff’s claims are styled as matters of state law, they are in fact

1 federal in character. *See Lippitt v. Raymond James Fin. Servs., Inc.*, 340 F.3d 1033, 1041 (9th  
 2 Cir. 2003) (courts may “delve beyond the face of the state court complaint and find federal  
 3 question jurisdiction by recharacteriz[ing] a plaintiff’s state-law claim as a federal claim”)  
 4 (quoting *Precision Pay Phones v. Qwest Communications Corp.*, 210 F. Supp. 2d 1106, 1112-13  
 5 (N.D. Cal. 2002)) (internal quotation marks omitted).  
 6

7 12. By placing squarely at issue Defendants’ compliance with the ITFA, Plaintiff  
 8 raises “an important issue of federal law that sensibly belongs in a federal court.” *Grable*, 545  
 9 U.S. at 315. The ITFA was enacted to “establish[] a national policy against State and local  
 10 government interference with interstate commerce on the Internet or interactive computer  
 11 services.” H.R. Rep. No. 105-825, at 1548 (1998) (Conf. Rep.). A federal forum is best suited  
 12 to the interpretation of the rights and responsibilities created by this national policy. Thus, the  
 13 Court’s exercise of federal question jurisdiction will not “disturb[] any congressionally approved  
 14 balance of federal and state judicial responsibilities.” *Grable*, 545 U.S. at 314.  
 15

#### 16 Diversity Jurisdiction Under CAFA

17 13. **Covered Class Action.** This action meets CAFA’s definition of a class action,  
 18 which is “any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar  
 19 State statute or rule of judicial procedure.” 28 U.S.C. §§ 1332(d)(1)(B), 1435(a) & (b). In  
 20 paragraph 10 of the Complaint, Plaintiff alleges that this action is “a class action pursuant to the  
 21 provisions of California Code of Civil Procedure Section 382 and Civil Code Section 1781(a).”  
 22

23 14. **Class Action Consisting of More Than 100 Members.** The Complaint alleges  
 24 that “the Class is so numerous that joinder of all members in a single action would be  
 25 impracticable.” Complaint ¶ 17. The Class is defined as “all AT&T customers, past and present,  
 26 who contracted for internet access and were charged fees and/or taxes based upon the cost of  
 27 internet access.” *Id.* ¶ 11. ATTM provides wireless data plans for well over 100 customers who  
 28

1 use data cards or “smart phone[s]” such as an [iPhone], a Blackberry, or a similar device.”  
2 Complaint ¶ 6. Indeed, very similar lawsuits filed in federal court by the same plaintiffs’ counsel  
3 on behalf of other ATTM wireless data service subscribers identify the number of potential class  
4 members as in the “hundreds of thousands.” Complaint, *Bendian v. AT&T, Inc. and AT&T*  
5 *Mobility, LLC*, No. 09-cv-6100 (D.N.J. Dec. 2, 2009), ¶ 17; *see also, e.g.*, Complaint, *Diethelm*  
6 *v. AT&T Mobility, LLC*, No. 09-cv-2546 (N.D. Ala. Dec. 18, 2009), ¶ 30 (alleging that class  
7 includes “thousands of individuals”). Accordingly, the aggregate number of class members is  
8 greater than 100 persons, as required by 28 U.S.C. § 1332(d)(5)(B).  
9

10 15. **Diversity.** Pursuant to 28 U.S.C. § 1332(d)(2)(A), at least one member of the  
11 putative plaintiff class is a “citizen of a State different from any defendant.” Plaintiff Sipple, the  
12 named Plaintiff, alleges that he is a “resident of California.” Compl. ¶ 1. Defendant ATTM is,  
13 and was at the time of the filing of this action, a limited liability company organized and existing  
14 under the laws of Delaware, with its headquarters and principal place of business in Georgia.  
15 Accordingly, Plaintiff is a citizen of a state (California) different from at least one defendant  
16 (Delaware and Georgia, *see* 28 U.S.C. §§ 1332(c), (d)(10)), thus satisfying the diversity  
17 requirements of 28 U.S.C. § 1332(d)(2)(A).  
18

19 16. **Amount in Controversy.** Under CAFA, the claims of the individual class  
20 members are aggregated to determine if the amount in controversy exceeds the required “sum or  
21 value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. §§ 1332(d)(2), (d)(6); *see also*  
22 *Lowdermilk v. US Bank Nat’l Ass’n*, 479 F.3d 994, 1004 (9th Cir. 2007). While ATTM denies  
23 the claims alleged in Plaintiff’s Complaint and further denies that Plaintiff, or any putative class  
24 member, is entitled to any monetary or injunctive relief, the amount in controversy here satisfies  
25 the jurisdictional threshold, as explained below.  
26  
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1           17.     The Complaint itself is silent as to the amount of damages sought, but given the  
2 size of the putative class and the monetary relief sought, the amount in controversy exceeds \$5  
3 million, exclusive of interest and costs. This action is a putative class action in which Plaintiff  
4 alleges that “[d]espite the prohibition on taxation of internet access enacted by the Internet Tax  
5 [Freedom] Act, Defendants charge their California customers fees and taxes based upon, in part,  
6 the cost of internet access.” Complaint ¶ 9. Plaintiff defines the putative class as “all AT&T  
7 customers, past and present, who contracted for internet access and were charged fees and/or  
8 taxes based upon the cost of internet access.” *Id.* ¶ 11. Based on these underlying allegations,  
9 Plaintiff claims that Defendants committed breach of contract by violating the Internet Tax  
10 Freedom Act (47 U.S.C. § 151 note) and violated the California Unfair Competition Law (Cal.  
11 Bus. & Prof. Code § 17200 et seq.). *Id.* ¶¶ 21-28. Plaintiff demands as relief compensatory  
12 damages, restitution, and attorney and paralegal fees, as well as costs and interest. *Id.* pp. 6:15-  
13 7:1.  
14  
15

16           18.     Based on these allegations in the Complaint, the potential amount in controversy  
17 exceeds \$5 million. According to ATTM’s records, it assessed substantially more than \$5  
18 million in state and local taxes in connection with wireless data services provided to its  
19 California subscribers during 2009, which is within the class period defined by the Complaint.  
20 *See* Compl. ¶ 10. Moreover, very similar lawsuits filed in federal court by the same plaintiffs’  
21 counsel on behalf of other ATTM wireless data service subscribers have expressly alleged that  
22 the amount in controversy exceeds CAFA’s \$5 million threshold. *See, e.g.,* First Amended  
23 Complaint, *Havron v. AT&T, Inc. and AT&T Mobility, LLC*, No. 09-cv-1040 (S.D. Ill. Dec. 18,  
24 2009) (alleging that amount in controversy for Illinois-only class exceeds \$5 million).  
25 Accordingly, while ATTM contends that neither Plaintiff nor any other putative class member is  
26  
27  
28

1 entitled to a monetary recovery, the amount placed in controversy by Plaintiff's Complaint  
2 exceeds \$5 million.

3 \* \* \* \*

4  
5 19. In accordance with 28 U.S.C. § 1446(d), ATTM is serving Plaintiff with a copy of  
6 a Notice to Plaintiff of Filing of Notice of Removal of Action Pursuant to 28 U.S.C. §§ 1331,  
7 1332, 1441, and 1446. A true and correct copy of that Notice to Plaintiff is attached hereto as  
8 Exhibit B and is incorporated by reference.

9 20. Pursuant to 28 U.S.C. § 1446(d), ATTM also is filing in the California Superior  
10 Court for the County of San Diego, and has served the same upon Plaintiff, a Notice to Superior  
11 Court of Filing of Removal of Action Pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446. A  
12 true and correct copy of that Notice to Superior Court is attached hereto as Exhibit C and  
13 incorporated by reference.  
14

15  
16 Dated: January 22, 2010

MAYER BROWN LLP  
JOHN NADOLENCO  
LISA W. CORNEHL

17  
18  
19 By: Lisa W. Cornehl

Lisa W. Cornehl  
Attorneys for Defendant  
AT&T MOBILITY LLC

20  
21  
22 Of Counsel:

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24 Archis A. Parasharami  
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25 1999 K Street, N.W.  
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26 Telephone: (202) 263-3000  
27 Facsimile: (202) 263-3300  
28





# SUMMONS

## (CITACION JUDICIAL)

### NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

AT&T, INC. and AT&T MOBILITY, LLC  
and DOES 1 to 10, inclusive,

### YOU ARE BEING SUED BY PLAINTIFF:

### (LO ESTÁ DEMANDANDO EL DEMANDANTE):

DONALD SIPPLE, an individual, on behalf of himself, and on behalf of all persons similarly situated,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

FILED  
CIVIL BUSINESS OFFICE 13  
JAN 21 2010

2009 DEC -3 P 1:14

CLERK OF SUPERIOR COURT  
SAN DIEGO COUNTY, CA

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

CASE NUMBER (Número del Caso)  
37-2009-00184-BTM-BC-CTL

The name and address of the court is:

(El nombre y dirección de la corte es):

San Diego Superior Court  
330 W. Broadway  
San Diego, CA 92101

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Stephen B. Morris  
444 West C Street, Ste 300  
San Diego, CA 92101  
MORRIS AND ASSOCIATES  
(619) 239-1300

DATE: DEC 03 2009  
(Fecha)

Clerk, by D. JOHNSON, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

### NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation)  
☐ CCP 416.20 (defunct corporation)  
☐ CCP 416.40 (association or partnership)  
☐ other (specify):

- ☐ CCP 416.60 (minor)  
☐ CCP 416.70 (conservatee)  
☐ CCP 416.90 (authorized person)

- ☒ by personal delivery on (date):

SUMMONS

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Stephen B. Morris</b> 126192 <b>MORRIS AND ASSOCIATES</b> 444 West C Street, Ste 300 San Diego, CA 92101 TELEPHONE NO.: (619) 239-1300 FAX NO.: (619) 234-3672 ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY  <div style="text-align: center;">FILED</div> CIVIL BUSINESS OFFICE 13 CENTRAL DIVISION  2009 DEC -3 P 1:14  SUPERIOR COURT SAN DIEGO COUNTY, CA	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice		CASE NAME: Sipple v. AT&T	
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
CASE NUMBER: <b>37-2009-00103076-CU-BC-CTL</b>		JUDGE: DEPT.:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)  <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)  <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)  <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)  <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)  <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)  <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)  <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20)  <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)  <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 2
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 2, 2009

Stephen B. Morris  
(TYPE OR PRINT NAME)
  
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)
**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Stephen B. Morris (SB# 126192)  
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Harry Huge (D.C. SBN 55640)  
Theodore Huge (SC SBN 36026)  
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Washington, D.C. 20007  
Tel: (202) 965-4672

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO**

DONALD SIPPLE, an individual, on behalf of  
himself, and on behalf of all persons similarly  
situated,

Plaintiff,

vs.

AT&T, INC. and AT&T MOBILITY, LLC and  
Does 1 to 10,

Defendant.

CASE NO. 37-2009-00103076-CU-BC-CTL

**COMPLAINT FOR:**

1. **BREACH OF CONTRACT and**
2. **VIOLATION B&P CODE §§17200**

**CLASS ACTION**

1           1.     Plaintiff, DONALD SIPPLE, is a resident of California. He is an individual  
2 customer of Defendants AT&T, INC. and/or AT&T MOBILITY, LLC (hereinafter collectively  
3 "AT&T").

4           2.     Defendant AT&T, INC. is a Delaware corporation in good standing and is  
5 authorized to do business in California. Defendant AT&T, INC. maintains its principle place of  
6 business at 208 S. Akard Street, Dallas, Texas.

7           3.     Defendant AT&T MOBILITY, LLC is a Delaware limited liability company in  
8 good standing and is authorized to do business in California. AT&T MOBILITY, LLC maintains  
9 its principle place of business at 1025 Lenox Park Blvd NE, Suite 5D46, Atlanta, Georgia.

10          4.     DOES 1 through 10, inclusive, are, and were at all relevant times hereto,  
11 corporations and/or business entities qualified to do business throughout the United States. Each  
12 DOE Defendant was the agent, licensee and/or employee of the other Defendants, and each of  
13 them, and was at all times herein mentioned acting within the course and scope of such  
14 relationship. Each was in some manner responsible for PLAINTIFF's damages, or damage to the  
15 putative Class of persons which PLAINTIFF seeks to represent.

16  
17                                   **FACTS COMMON TO ALL COUNTS**

18          5.     DEFENDANTS sell wireless data plans to consumers and businesses by contract on  
19 a monthly payment plan. The purchase of a wireless data plan permits purchasers of the plan to  
20 obtain access to the internet remotely either on a computer or on a so-called "smart phone" such as  
21 an I-Phone, a Blackberry, or a similar device.

22          6.     AT&T's wireless data plans are sold to owners of "smart phones" or via data cards.  
23 AT&T bills for internet access with a separate line item on the AT&T monthly bill in varying  
24 amounts depending on the type of access contracted for. Plaintiff has such a plan and pays AT&T  
25 \$30 per month.

26          7.     In 1996 the United States Congress passed, and the President approved, the Internet  
27 Tax Fairness Act (the "ITFA"). The ITFA, 47 U.S.C. § 151 (1998) as amended, bars state and  
28 local government from imposing fees and taxes on internet access. "No State or political

1 subdivision thereof shall impose any of the following taxes during the period beginning  
2 November 1, 2003, and ending November 1, 2014: ... (1) Taxes on Internet access.”

3 8. Under the Internet Tax Fairness Act the phrase “internet access” means “a service  
4 that enables users to connect to the Internet to access content, information, or other services  
5 offered over the Internet; (B) includes the purchase, use or sale of telecommunications by a  
6 provider of a service described in subparagraph (A) to the extent such telecommunications are  
7 purchased, used or sold.-- (I) to provide such service; or (ii) to otherwise enable users to access  
8 content, information or other services offered over the Internet[.]”

9 9. Despite the prohibition on taxation of internet access enacted by the Internet Tax  
10 Fairness Act, DEFENDANTS charge their California customers fees and taxes based upon, in  
11 part, the cost of internet access.

### 12 13 CLASS ACTION ALLEGATIONS

14 10. This action is thus brought, and may properly be maintained, as a class action  
15 pursuant to the provisions of California Code of Civil Procedure Section 382 and Civil Code  
16 Section 1781(a). Plaintiff brings this action on behalf of himself and on behalf of a Class of all  
17 others similarly situated who, within four (4) years prior to the date of filing of this action, entered  
18 into a contract with AT&T for the provision of internet access through a smart phone or a wireless  
19 data card.

20 11. The Class of persons for whose benefit this case is brought consists of all AT&T  
21 customers, past and present, who contracted for internet access and were charged fees and/or taxes  
22 based upon the cost of internet access.

23 12. Plaintiff's claims are typical of the claims of the Class because he and all members  
24 of the putative Class have sustained damages as a result of AT&T's charging of fees and taxes  
25 based upon the cost for internet access.

26 13. There are numerous questions of law and fact common to the Class which  
27 predominate over any questions affecting only individual class members, including but not limited  
28 to the following:

- whether AT&T charged Plaintiff and the Class fees and taxes based upon the cost of internet access in violation of the Internet Tax Fairness Act;
- whether AT&T's actions violated California law;
- whether AT&T has been unjustly enriched by its retention of a portion of the tax;
- whether AT&T should be enjoined from collecting fees and taxes based upon the cost of internet access;
- whether AT&T should be required to seek a refund of the fees and taxes paid to California and to return any refund to Plaintiff and the members of the Class.

14. All common questions are able to be resolved through the same factual occurrences as specifically and/or generally alleged herein.

15. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Plaintiff has no claims antagonistic to those of the Class. Plaintiff has retained competent and experienced counsel in complex class action litigation. Counsel is committed to the vigorous prosecution of this action.

16. The prosecution of separate actions by the Plaintiff and individual members of the Class against the Defendants would create a risk of inconsistent or varying adjudications on the common issues of law and fact related to this action.

17. A class action is superior to other methods for the fair and efficient adjudication of this controversy since the Class is so numerous that joinder of all members in a single action would be impracticable and the repetitive testimony of each Class member at trial would be unnecessary and an inefficient use of judicial resources. Since the practices engaged in are common to all members of the Class, judicial economy would not be served by multiple actions with duplicative and repetitive testimony. Furthermore, as the monetary injury suffered by individual Class members may be relatively small, the expense and burden of individual litigation would make it impossible for members of the Class to individually redress the wrongs done to them.



20. Plaintiff is aware of no difficulty which will be encountered in the management of this litigation which would preclude its maintenance as a class action.

**(Breach of Contract)**

22. AT&T and PLAINTIFF entered into a written contract.

24. The contract between AT&T and Plaintiff permits AT&T to charge for its services including internet access on a monthly basis and permits AT&T to charge PLAINTIFF for all applicable and legally due federal, state and local fees and/or taxes.

26. Despite the prohibition on state and local fees and taxes imposed by the Internet Tax Fairness Act, AT&T charged PLAINTIFF fees and/or taxes based upon the cost of his internet access.

27. In doing the acts complained of herein, AT&T breached its contractual obligations to PLAINTIFF and the putative Class causing him damages in an amount to be proven at the time of trial.



**SECOND CAUSE OF ACTION**

**(Violation of Business and Professions Code, §17200 *et seq.*, )**

28. Plaintiff realleges and incorporates by reference paragraphs 1 through 27 inclusive, of this Complaint, as though set forth in full herein.

29. In failing to inform the Plaintiffs and the Class that it intended to charge them fees and taxes that were not due, and in collecting charges that are unlawful, deceptive and/or unfair, AT&T violated Business and Professions Code § 17200.

28. Specifically, in doing the acts complained of herein, AT&T engaged in conduct in contravention of California Law.

**PRAYER**

**WHEREFORE**, Plaintiff prays for relief as follows:

**ON THE FIRST CAUSE OF ACTION**

1. For money damages;
2. For attorney and paralegal fees;
3. For prejudgment interest as allowed by law;
4. For costs of suit incurred herein; and
5. For such other relief as the Court deems just and proper.

**ON THE SECOND CAUSE OF ACTION**

1. For disgorgement by Defendant of all amounts that have been obtained in connection with any of the deceptive, unfair and/or unlawful business practices alleged herein;
2. For restitution according to proof;
3. For attorney and paralegal fees;
4. For prejudgment interest as allowed by law;
5. For costs of suit incurred herein; and

- 1           4.     For prejudgment interest as allowed by law;
- 2           5.     For costs of suit incurred herein; and
- 3           6.     For such other relief as the Court deems just and proper.

4

5     Dated:       December 2, 2009

MORRIS AND ASSOCIATES

6

7

by:



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Stephen B. Morris  
Attorney for Plaintiff

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<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>	
STREET ADDRESS: 330 West Broadway	
MAILING ADDRESS: 330 West Broadway	
CITY AND ZIP CODE: San Diego, CA 92101	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7068	
PLAINTIFF(S) / PETITIONER(S): Donald Sipple	
DEFENDANT(S) / RESPONDENT(S): AT&T, Inc. et.al.	
SIPPLE VS. AT&T, INC.	
<b>NOTICE OF CASE ASSIGNMENT</b>	CASE NUMBER: 37-2009-00103076-CU-BC-CTL

Judge: Judith F. Hayes

Department: C-68

COMPLAINT/PETITION FILED: 12/03/2009

**CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW**

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

**COMPLAINTS:** Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

**DEFAULT:** If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING



1 MAYER BROWN LLP  
2 JOHN NADOLENCO (SBN 181128)  
3 jnadolenco@mayerbrown.com  
4 LISA W. CORNEHL (SBN 232733)  
5 lcornehl@mayerbrown.com  
6 350 South Grand Avenue, 25th Floor  
7 Los Angeles, CA 90071-1503  
8 Telephone: (213) 229-9500  
9 Facsimile: (213) 625-0248

10 Attorneys for Defendant  
11 AT&T MOBILITY LLC

12 **UNITED STATES DISTRICT COURT**  
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 DONALD SIPPLE, an individual, on behalf of  
15 himself, and on behalf of all persons similarly  
16 situated,

17 Plaintiffs,

18 v.

19 AT&T, INC. and AT&T MOBILITY, LLC and  
20 DOES 1 to 10,

21 Defendants.

Case No. \_\_\_\_\_

Cal. State Court Case No. 37-2009-  
00103076-CU-BC-CTL

**NOTICE TO PLAINTIFF OF FILING  
OF NOTICE OF REMOVAL OF  
ACTION PURSUANT TO 28 U.S.C. §§  
1331, 1332, 1441 AND 1446**

**(FEDERAL QUESTION AND  
DIVERSITY JURISDICTION—CLASS  
ACTION FAIRNESS ACT)**

1 TO PLAINTIFF DONALD SIPPLE AND HIS ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1446(d), on January 22, 2010,  
3 Defendant AT&T Mobility LLC ("ATTM") filed a Notice of Removal of Action Pursuant to 28  
4 U.S.C. §§ 1331, 1332, 1441 and 1446 (Federal Question Jurisdiction and Diversity  
5 Jurisdiction—Class Action Fairness Act) in the United States District Court for the Southern  
6 District of California.  
7

8 Dated: January 22, 2010

MAYER BROWN LLP  
JOHN NADOLENCO  
LISA W. CORNEHL

11 By: Lisa W. Cornehl  
12 Lisa W. Cornehl  
13 Attorneys for Defendant  
14 AT&T MOBILITY LLC

14 Of Counsel:

15 Evan M. Tager  
16 Archis A. Parasharami  
17 Elizabeth G. Oyer  
18 MAYER BROWN LLP  
19 1999 K Street, N.W.  
20 Washington, D.C. 20006-1101  
21 Telephone: (202) 263-3000  
22 Facsimile: (202) 263-3300  
23  
24  
25  
26  
27  
28



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6 Attorneys for Defendant  
AT&T MOBILITY LLC  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO**

10  
11 DONALD SIPPLE, an individual, on behalf of  
12 himself, and on behalf of all persons similarly  
situated,

13 Plaintiffs,

14 v.

15 AT&T, INC. and AT&T MOBILITY, LLC and  
16 DOES 1 to 10,

17 Defendants.  
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Case No. 37-2009-00103076-CU-BC-CTL

**NOTICE TO SUPERIOR COURT OF  
FILING OF NOTICE OF REMOVAL  
OF ACTION PURSUANT TO 28 U.S.C.  
§§ 1331, 1332, 1441 AND 1446 .**

(FEDERAL QUESTION AND  
DIVERSITY JURISDICTION—CLASS  
ACTION FAIRNESS ACT)



1 TO THE CLERK OF THE ABOVE-CAPTIONED COURT:

2 NOTICE IS HEREBY GIVEN THAT, pursuant to 28 U.S.C. § 1446(d), on January 22,  
3  
4 2010, Defendant AT&T Mobility LLC ("ATTM") filed a Notice of Removal of Action Pursuant  
5  
6 to 28 U.S.C. §§ 1331, 1332, 1441 and 1446 (Federal Question Jurisdiction and Diversity  
7  
8 Jurisdiction—Class Action Fairness Act) in the United States District Court for the Southern  
9  
10 District of California, together with a copy of all pleadings and documents obtained from the  
11  
12 state court file.

13  
14 A true and correct copy of the Notice of Removal (without exhibits) filed with the federal  
15  
16 court is attached hereto as Exhibit A and is incorporated herein by reference.

17 Dated: January 22, 2010

MAYER BROWN LLP  
JOHN NADOLENCO  
LISA W. CORNEHL

18 By: Lisa W. Cornehl  
19 Lisa W. Cornehl  
20 Attorneys for Defendant  
21 AT&T MOBILITY LLC  
22

23 Of Counsel:

24 Evan M. Tager  
25 Archis A. Parasharami  
26 Elizabeth G. Oyer  
27 MAYER BROWN LLP  
28 1999 K Street, N.W.  
Washington, D.C. 20006-1101  
Telephone: (202) 263-3000  
Facsimile: (202) 263-3300

**PROOF OF SERVICE**

I, Elena G. Griffin, declare:

I am employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 350 South Grand Avenue, 25th Floor, Los Angeles, California 90071-1503. On January 22, 2010, I served a copy of the within document(s):

**NOTICE TO SUPERIOR COURT OF FILING OF NOTICE OF  
REMOVAL OF ACTION PURSUANT TO 28 u.s.c. §§ 1331, 1332, 1441 AND 1446**

- ☐ by transmitting via facsimile the document(s) listed above to the facsimile address(es) set forth below on this date before 5:00 p.m.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.
- ☒ by placing the document(s) listed above in a sealed UPS envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a UPS agent for delivery.

Stephen B. Morris, Esq.  
MORRIS and ASSOCIATES  
444 West C Street, Suite 300  
San Diego, CA 92101  
Tel.: (619) 239-1300  
Fax: (619) 234-3672

Harry Huge, Esq.  
Theodore Huge, Esq.  
THE HUGE LAW FIRM LLC  
1080 Wisconsin Ave., N.W., Suite 3016  
Washington, D.C. 20007  
Tel.: (202) 965-4672

Edward D. Robertson, Jr., Esq.  
Mary D. Winter, Esq.  
Anthony L. DeWitt, Esq.  
BARTIMUS, FRICKLETON, ROBERTSON  
& GORNEY, P.C.  
715 Swifts Highway  
Jefferson City, MO 65109  
Tel.: (573) 659-4454  
Fax: (573) 659-4460

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

1 I declare under penalty of perjury under the laws of the State of California that the above  
2 is true and correct.

3 Executed on January 22, 2010, at Los Angeles, California.

4 

5 Elena G. Griffin  
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JS 44 (Rev. 12/07) (cand rev 1-16-08)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

**I. (a) PLAINTIFFS**

Donald Sipple

**DEFENDANTS**

AT&amp;T Inc.

AT&amp;T Mobility LLC

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

John Nadolenco

Lisa W. Cornehl

MAYER BROWN LLP

350 South Grand Avenue, 25th Floor

Los Angeles, CA 90071-1503

Tel. (213) 229-9500

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ 1 PTF DEF
- Citizen of Another State ☐ 2 ☐ 2
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3
- Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Incorporated and Principal Place of Business In Another State ☐ 5 ☒ 5
- Foreign Nation ☐ 6 ☐ 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury — Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury — Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<b>LABOR</b>	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service	
<input checked="" type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities Exchange	
<input type="checkbox"/> 195 Contract Product Liability		<b>Habeas Corpus:</b>	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 530 General	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions	
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 790 Other Labor Litigation	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 891 Agricultural Acts	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 550 Civil Rights	<b>IMMIGRATION</b>	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 894 Energy Allocation Act	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare		<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 895 Freedom of Information Act	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment		<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other				<input type="checkbox"/> 950 Constitutionality of State Statutes	
	<input type="checkbox"/> 440 Other Civil Rights					

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC 1331

Brief description of cause: Breach of Contract/Unfair Trade Practices

**VII. REQUESTED IN COMPLAINT:**☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instruction): JUDGE

DOCKET NUMBER

DATE

1/22/2010

FOR OFFICE USE ONLY

RECEIPT

AMOUNT

\$350

APPLYING IFP

JUDGE

MAG. JUDGE

American LegalNet, Inc.  
www.FormsWorkflow.com

209463121

MB 01-22-10

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

Court Name: USDC California Southern  
Division: 3  
Receipt Number: CAS009448  
Cashier ID: mbain  
Transaction Date: 01/22/2010  
Payer Name: TIME MACHINE NETWORK

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CIVIL FILING FEE  
For: SIPPLE V AT AND T  
Case/Party: D-CAS-3-10-CV-000184-001  
Amount: \$350.00

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CHECK  
Check/Money Order Num: FF76269  
Amt Tendered: \$350.00

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Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

There will be a fee of \$45.00  
charged for any returned check.